रजिस्ट्री सं. डी.एल.-33004/97 REGISTERED No. DL-33004/97

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 65] नई दिल्ली, शुक्रवार, दिसम्बर 26, 1997 / पौष 5, 1919
No. 65] NEW DELHI, FRIDAY, DECEMBER 26, 1997 / PAUSA 5, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th *December,* 1997/*Pausa* 5, 1919 *(Saka)*

THE INCOME-TAX (AMENDMENT) SECOND ORDINANCE, 1997

No. 28 OF 1997

Promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance further to amend the Income-tax, Act, 1961.

WHEREAS the Income-tax (Amendment) Ordinance, 1997 further to amend the Income-tax Act, 1961 was promulgated by the President on the 16th day of September, 1997;

AND WHEREAS the Income-tax (Amendment) Ordinance, 1997 could not be replaced by an Act of Parliament due to the dissolution of the House of the People;

AND WHEREAS the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Income-tax (Amendment) Second Ordinance, 1997.

(*2*) Save as otherwise provided in this Ordinance, it shall be deemed to have come into force on the 16th day of September, 1997.

Amendment of section 32.

2. In section 32 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in sub-section (*1*), with effect from the 1st day of April, 1998,— 43 of 1961.

(*a*) before clause (*ii*), the following clause shall be inserted, namely:—

"(*i*) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;";

(*b*) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that where an asset referred to in clause (*i*) or clause (*ii*), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (*i*) or clause (*ii*), as the case may be;";

Amendment of section 80-IA

3. In section 80-IA of the Income-tax Act,—

(*a*) in sub-section (*1*), after the words "commercial production of mineral oil in the North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(*b*) in sub-section (*2*), in clause (*iv*),—

(*i*) in sub-clause (*b*), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

'Provided that in the case of an industrial undertaking set up in any part of India for the generation, or generation and distribution, of power, the period ending shall have effect as if for the figures "1998", the figures "2000" had been substituted.';

(*ii*) in sub-clause (*c*), after the words "specify in this behalf", the words and letters "as industrially backward district of Category A or industrially backward district of Category B and" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995;

(*c*) in sub-section (*4E*), after the words "North-Eastern Region", the words, letters and figures "or in any part of India on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(*d*) in sub-section (*5*), in clause (*i*), in sub-clause (*b*), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995, namely:—

'Provided further that in case of an industrial undertaking located in Category B industrially backward district, the provisions of this clause shall have effect as if for the words "five assessment years", the words "three assessment years" had been substituted.';

(*e*) in sub-section (*6*),—

(*A*) for clause (*ii*), the following clauses shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1995, namely:—

"(ii) ten in the case of an assessee, not being a co-operative society, deriving profits and gains from an industrial undertaking specified in sub-clause (*a*) or sub-clause (*b*) or sub-clause (*d*) of clause (*iv*) of sub-section (2) or located in Category A backward districts specified in sub-clause (*c*) of clause (*iv*) of that sub-section;

(iia) eight in the case of an assessee deriving profits and gains from an industrial undertaking located in Category B districts specified in sub-clause (*c*) of clause (*iv*) of sub-section (*2*) and such an undertaking is not covered under clauses (*i*) and (*ii*) of this sub-section;";

(*B*) in clause (*iv*), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely:—

'Provided that where the assessee begins operating and maintaining any infrastructure facility referred to in sub-clause (*ii*) of clause (*ca*) of sub-section (*12*), the provisions of this clause shall have effect as if for the word "twelve", the word "twenty" had been substituted;';

(*C*) in clause (*viii*), after the words "commercial production of mineral oil in the North-Eastern Region", the words, letters and figures "and other parts of the country on or after the 1st day of April, 1997" shall be inserted with effect from the 1st day of April, 1998;

(*f*) after sub-section (*7*), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely:—

"(*7A*) Notwithstanding anything contained in sub-section (*4A*), where housing or other activities are an integral part of the highway project and the profits of which are computed on such basis and manner as may be prescribed, such profit shall not be liable to tax where the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account; and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.";

(*g*) in sub-section (*12*), for clause (*ca*), the following clause shall be substituted with effect from the 1st day of April, 1998, namely:—

'(*ca*) "infrastructure facility" means—

(*i*) a road, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(*ii*) a highway including housing or other activities being an integral part of the highway project; and

(*iii*) a water supply project, irrigation project, sanitation and sewerage system;'.

Ord. 15 of 1997.

4. (*1*) The Income-tax (Amendment) Ordinance, 1997, is hereby repealed.

Repeal and Saving.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Income-tax Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Income-tax Act, as amended by this Ordinance.

K. R. NARAYANAN,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

PRINTED BY THE MANAGER GOVERNMENT OF INDIA PRESS (PLU), MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI—1997.